

**Behavioral Sciences Regulatory Board
Psychology Advisory Committee
February 9, 2021, 6:00 p.m.
Minutes
DRAFT**

Call to Order at 6:04 p.m.

Advisory Committee Members attending on Zoom: Abby Callis, Carol Crane, Doug Wright, Janine Kesterson, Johnna Norton, Monica Kurylo, and Ric Steele

Staff present: Assistant Attorney Generals – Janet Arndt and Jane Weiler. BSRB Staff - David Fye, Leslie Allen, and Cindy D’Ercole.

Advisory Committee Member Training. Janet Arndt, Assistant Attorney General, provided Advisory Committee Member Training.

Executive Session. Abby Callis motioned, pursuant to K.S.A. 75-4319, I move that the Psychology Advisory Committee recess into executive session for 30 minutes and reconvene the open meeting at 7:50 p.m. The meeting will be reconvened remotely by conference call at 1-877-278-8686, PIN 327072, and at the link to the Board’s YouTube channel as stated in the notice of meeting that was sent to individuals who requested notice and published on the Board’s website: ksbsrb.kansas.gov. The justification is consultation that would be deemed privileged in the attorney-client relationship with the Board’s legal counsel, Assistant Attorneys General Janet Arndt and Jane Weiler. The subjects to be discussed in the executive session concern the Kansas Open Meetings Act during the disaster emergency declaration and pending legislation. Board staff who are included as the client in the executive session are David Fye and Leslie Allen. Johnna Norton seconded. The motion carried.

Review and Approval of Minutes from the Licensed Psychology Advisory Committee Meeting on October 13, 2020. Johnna Norton moved to approve the minutes from the October 13, 2020, advisory committee meeting and Doug Wright seconded the motion. The minutes were approved by voice vote.

Introduction of Executive Director David Fye. David Fye, Executive Director for the Behavioral Sciences Regulatory Board (BSRB), noted that the previous Executive Director, Max Foster, retired from state service on January 8, 2021, and Mr. Fye is serving as the new Executive Director for the BSRB. The Executive Director provided information on his professional background and his interest in serving in this position.

Executive Director Report – The Executive Director noted the bill requested by the BSRB with statutory changes for licensees is HB 2208 and will receive an upcoming hearing in the House Health and Human Services Committee. An identical Senate bill is being requested from the Senate Public Health and Welfare Committee, to allow either committee to work on the bill without having to wait on action for the other chamber. This is also a safety measure, in the event one of the committees would need to have a condensed meeting schedule due to the pandemic. The Executive Director provided an update on the agency’s budget being considered by the Legislature, noting that the House reported the budget favorably with no changes. The Senate Committee on Transparency and Ethics reported the agency’s budget favorably with no changes, and the Senate Ways and Means Committee would be considering the agency’s budget the following day. Members of the advisory committee welcomed the Executive Director and thanked him for serving the agency.

New Business

a. Request to Raise the Limit on Televideo Supervision Allowed During Postdoctoral Experience. Ric Steele, Chair of the Advisory Committee, discussed e-mail requests received by the BSRB, from individuals asking that K.A.R. 102-1-5a be changed concerning the current language that states, in an emergency situation, some post-doc hours may be done over televideo, but not more frequently than one out of four sessions. The

rest of the hours must be done in person. The Chair noted that several other professions have made changes to allow more frequent tele-supervision and some individuals have asked if their current supervision done over televideo will count. Members of the advisory committee asked if any of the executive orders under the disaster declaration would allow flexibility in this area. Assistant Attorney General Jan Arndt clarified that no executive order would allow for this flexibility, but the only way to change this policy would be to change the regulation. The advisory committee recommended revisiting this topic at the next advisory committee meeting.

b. HB 2209/Psypact. The Chair noted HB 2209 had been posted to the Legislature's website. This bill would bring Kansas into a multi-state compact named the Psychology Interjurisdictional Compact, a.k.a. Psypact, which would allow licensed psychologists to practice tele-psychology services in compact states and up to 30 days of in-state practice in compact states. Ms. Arndt provided a summary of the bill, noting that the compact is structured a little differently than other recent multi-state compacts, because the fee for individuals to participate in the compact goes to the Psypact organization, rather than to a state. Ms. Arndt noted that passage of the compact could be a financial issue for the state, because the state is tasked to investigate complaints, and with more individuals practicing in Kansas providing telehealth services, it is anticipated that the number of complaints will increase, and the number of investigative hours needed from the BSRB staff to investigate these complaints is expected to increase, however the funding to support these investigations would be going to Psypact, rather than the BSRB.

Jane Weiler, Assistant Attorney General, noted issues related to coordination of investigations between states under the compact. Cindy D'Ercole, lead investigator for the BSRB, noted jurisdictional issues and concerns whether out-of-state providers would be aware of the rules in Kansas and whether members of the public in Kansas would know how to file a complaint against an out-of-state practitioner. In the discussion, it was noted that licensees tend to support multi-state compacts due to the opportunity to provide services, however the question before the advisory committee is whether the BSRB can provide adequate protections for the public under the compact. It was noted that an individual would not be able to practice under the compact if that practitioner had discipline on their record, so it is anticipated that there will be an increase in the number of individuals appealing discipline to allow them to practice in Psypact. Concerns were also noted whether Kansas would be able to know when individuals were practicing tele-therapy in Kansas. It was noted that Psypact was relatively new, because the compact was not able to function until a certain number of states joined, so there had been very little time to gauge the positive or negative impact of the compact on participating states.

Members of the Advisory Committee asked what options could be done to make their voices heard. It was noted that the advisory committee could make a request or recommendation to the full Board requesting the Board take a position in the form of testimony at the upcoming bill hearing. The Executive Director noted testimony to legislative committees could be proponent testimony, neutral testimony, or opponent testimony. It was also noted that neutral testimony could express concerns, while not coming out specifically in support or against a particular bill. Members of the Advisory Committee recommended that opponent testimony be requested from the full Board, requesting HB 2209 not move forward at this time, due to the Advisory Committee needing more time to review the bill, as well as other concerns including the need to ensure the public can be adequately protected under the compact and other issues noted in the discussion at the advisory committee meeting. No advisory committee member who was present at the time of discussion expressed opposition to the advisory committee's recommendation that opponent testimony be requested by the full Board.

Adjournment. Doug Wright moved to adjourn the meeting. Abbey Callis seconded the motion. The motion carried by voice vote.